

Bishops who live like princes: Bishop Tebartz-van Elst and the challenge of defining corruption

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Bishops that live like princes

Bishop Tebartz-van Elst and the challenge of defining corruption

Introduction

Miracles and corruption can have a lot in common. Both are seldom recorded, both involve actors that often become famous, and both can be interpreted in a wide variety of different ways. Jesus's conversion of water to wine (*John*, 2:1-11), for example, could lead many to conclude a plethora of quite different things. A lawyer might question whether the converted wine should legally be considered water and, therefore, appropriate for minors to drink; a political scientist might seek to assess whether Jesus performing such a miracle at a wedding was simply part of a process of maximising his own power and influence, an economist might choose to calculate the amount of value added from the conversion whilst an anthropologist might analyse the social, cultural and evolutionary context within which such a conversion took place. One event, in other words, can be seen and analysed in a variety of different ways.

Through the summer of 2013, news began to circulate in Germany of a more earthly episode involving a figure of religious authority. Bishop Franz-Peter Tebartz-van Elst of the diocese of Limburg stood accused of using church funds to build a controversial new residence. The cost of the residence (€31m) shocked many in the Catholic Church; a Church that at the same time was rejoicing its new Pope, Francis's, message of austerity and humility. Bishop Tebartz-van Elst appeared to be using others' money to build a lavish property that he himself would then live in. The Bishop's act of apparent corruption, abusing a public role for his own private gain, was well publicised by the media, and on 23 October 2013 Tebartz-van Elst was suspended from his post. Ultimately, he resigned as the Bishop of Limburg on 26 March 2014.

The case of 'Bishop Bling', as it became known, looked from the outside like a pretty simple act of corruption (McCoy, 2014; McElwee, 2014). In truth it was quite a complex episode. And one that is perfect for analysing where the boundaries of corruption apparently begin and end, and how, most

importantly, anti-corruption analysts can go about making sense of them. Indeed, in an important 2007 article on the causes of corruption Gjalte de Graaf bemoaned the fact that there “are not many studies on actual, individual corruption cases”. Whilst generalised theories certainly have their place, de Graaf argued that if more is to be understood about corruption’s complexity and contingency then “more contextual corruption research” is needed (de Graaf, 2007, p.39). This article rises to that challenge.

This article will begin by analysing how corruption has traditionally been defined before moving on to unpack the details of the episode to hand. It will illustrate that an overtly interdisciplinary approach to analysing allegations of corrupt behaviour can give us not just a more rounded understanding of the events themselves, but can also help us avoid the trap of slipping in to disciplinary trenches – something that has plagued the analysis of corruption in years gone by. Whilst there is much talk about the virtues of interdisciplinarity in academia and beyond, there is still little evidence of this rhetoric being genuinely embraced. Work on unpacking the forms that corruption takes, a vital prerequisite for conducting further empirical research, has previously tended to stick rigidly within disciplinary traditions (although for an impressive exception see de Graaf, von Maravic and Wagenaar, 2010). This article, and the case of Bishop Tebartz-van Elst, illustrates how corruption analysis is well primed to make good on these claims to interdisciplinarity.

The events surrounding Tebartz-van Elst are seen in often strikingly different ways. The stresses that different disciplinary approaches place on particular parts of the definitional mosaic can subsequently help the observer get a much more rounded picture of what has gone on, why it has gone on and how it should be understood. A comparative analysis of these interpretations subsequently illustrates that some approaches to a given case may well offer compelling evidence of what could be understood as corrupt behaviour. Other analytical starting points, however, may lead to either more ambiguous positions or simply to the conclusion that the particular sets of behaviour were not corruption at all. This article subsequently offers not just analysis of one interesting case, but also helps us broaden our understanding of corruption more generally.

Corruption and its definitional challenges

Few concepts in the social sciences are as hard to define as corruption. The tendency is often to pick a preferred definition, note the difficulties that come with this and then simply move on. Whilst this is in many ways understandable, it is ultimately not particularly satisfying. There is a need to know what is being analysed before the analysis itself takes place.

That is, however, rather easier said than done. Over time understandings of, and approaches to, the notion of corruption have changed noticeably. The classical republican tradition, for example, used corruption as a tool with which to help explain how states rose and fell and how communities came to move away from an apparently pure state of being (Macmullen, 1998). For Plato corruption was a disease of the body politic, a dysfunctional state where the rule of law was ignored and corrupt practices undermined legitimate government (Plato, 2011). Corruption was often understood as being about moral aberrations and was seen as a prism through which systemic failure could be explained. Some contemporary historians have turned this around, arguing that it was actually impossible to locate corruption in the pre-modern era as the divide between public roles and private interests was at best unclear and at worst non-existent (Scott, 1972). It wasn't that traditional discussions did not recognise the role of the individual, rather that the focus tended to be on broader, systemic issues and much less on individual behaviour and its relationship to the rule of law.

Through the latter half of the 20th Century corruption in the western world was rarely seen as anything more than an aberration, a case of stray individuals enriching themselves. Corruption subsequently came rather patronisingly to be understood as a developing world problem, and a problem that would sort itself out as and when these states 'modernised'. The onset of a series of scandals across developed countries through the 1990s helped change this. Furthermore, there was an increasing awareness that different settings breed different sets of corruption challenges; asking no questions when the proceeds of corruption are reinvested in cities like London may be very different to bribing policeman on the streets of African states, but it is still part of the corruption mosaic.

Contemporary definitions of corruption often stress how public servants deliberately abuse their (elected or appointed) positions to enrich themselves, their acquaintances or the particular

organisations with which they are aligned. This may involve money in some way, but it doesn't have to; the lure of power, influence or status can be equally as important (see Gardiner 1993; Philp 1997). International organisations often embrace this logic when discussing corruption; Transparency International, arguably the world's leading anti-corruption NGO, builds on the classic work of Joseph Nye in the late 1960s to talk of "the abuse of entrusted power for private gain", whilst the OECD believes corruption to be "the active or passive misuse of the powers of public officials (appointed or elected) for private financial or other benefits" (Nye, 1967; OECD, 2013; TI, 2016). Christian Schiller, writing on behalf of the IMF, believes corruption to be "the abuse of public power for private benefit" although he also broadens this slightly by adding that it can be thought of as "the abuse of authority or trust for private benefit" (Schiller, 2000). The World Bank, meanwhile, uses very similar language ("the abuse of public office for private gain").

The World Bank and IMF in particular have traditionally been keen to base their anti-corruption agendas on the evidence produced by economists. It should not therefore be too much of a surprise that the most prominent analysis in this area largely concurs with the definitions employed by these organisations. Mushtaq Khan, for example, sees corruption as "behaviour that deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives" whilst Arnold Heidenheimer et. al. argue that it is a "transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs" (Khan, 1996, p.12; Heidenheimer, Johnston and LeVine, 1989, p.6). Andrei Shleifer and Robert Vishny, in more combative mode, argue that corruption is "the sale by government officials of government property for personal gain" (Shleifer and Vishny, 1993). Susan Rose-Ackermann, in her seminal contribution from 1999, talks of the use of public office for "private economic gain", whilst Robert Klitgaard sees corruption simply as "the misuse of office for unofficial ends" (Rose-Ackermann, 1999, p.75; Klitgaard, 1998, p.82). This way of understanding corruption became dominant in international policy circles in the 1990s and remains important and influential today.

This is not to deny that definitions centring around the private gains made by public officials don't have their critics; Daniel Kaufmann, former head of the World Bank's Governance team, talks for

example of “the privatisation of public policy”, stressing how he feels traditional definitions place too much emphasis on public office and not enough on the role of the private sector in attempting to shape laws, regulations and agendas in their own interest (Kaufmann, 2005, p.82). Kaufmann (2016) has also stressed how those in power are adept at finding ways to legally influence laws, policies and rules for their own benefit. The capturing of the state by these apparently legal means can only really be prevented when transparency is adopted as a given; in a polity where potential conflicts of interest can be spotted and where the rules shaping public contracts are clear it becomes harder to shape rules and regulations in a way that Kaufmann (2016) describes as “legally corrupt”.

Anthropologists can also be fiercely critical of such definitions. They are sceptical of the blind eye that can get turned to the corrupters, and particularly the assumption that the private sector is simply reacting to opportunity structures created by public officials when, of course, it might well be that public servants are being well and truly worked over by skilful private actors (Brown and Cloke, 2004, p.283). Anthropologists have also repeatedly criticised what they claim is a very western understanding both of ‘public office’ as a concept and the notion of rational-legal bureaucracy more generally (Harrison, 2007, pp.672-674). These ideas don’t always travel at all well. This leads on to one of the most enduring problems in defining corruption; ultimately, one’s understanding of the corrupt will be indelibly linked with one’s understanding of the political. As Mark Philp noted in 1997, values, norms and ideas that shape understandings of what politics actually is will be fundamental to understanding what is and isn’t an acceptable part of the process (Philp, 1997; 2006). It is therefore hardly surprising that an interdisciplinary theory on the causes of (and subsequently solutions to) remains elusive. This is not only as understanding corrupt behaviour is inherently complex, but also as, in the words of de Graaf, von Maravic and Wagenaar (2010, p.166), “corruption research attracts people whose ideas on what the social world is are so fundamentally different that a new interdisciplinary approach is not likely to emerge”.

These points are all well-made. It might make practical sense to analyse alleged incidences of corruption through a given disciplinary prism, but that is not a good way of understanding all that goes in to making a corrupt act corrupt (or indeed not corrupt, as the case may be). If corruption analysts are

going to talk to the real-world about what they see, then disciplinary blinkers are often not helpful. It makes more sense to take a broader, interdisciplinary approach to alleged cases of corruption, using the ideas, methods and assumptions of disciplines such as law, political science, economics and anthropology to unpack this inherently political problem. This is illustrated in this article by looking at the case of Bishop Tebartz-van Elst in more detail.

The case of Bishop Tebartz-van Elst

Franz-Peter Tebartz-van Elst was appointed Bishop of Limburg on 28th November 2007 by Pope Benedict XVI. The diocese forms part of the Archdiocese of Cologne and at the last count had a Catholic population of 693,230. In 2002, the previous Bishop, Franz Kamphaus, had committed to financial austerity as a priority for the diocese. After Kamphaus's retirement, Tebartz-van Elst appeared to reverse the diocese's policies on spending. This started with an increase of the dues allotted to the Bishop by his parishes, with the purpose of building a new Bishop's residence. These accounted to an increase of €11,000 a year (Birkenstock, 2013). Construction of the Bishop's new residence began in 2008, with an initial cost of €200,000 (Wensierksi, 2013a). Through 2008, local newspapers started speculating as to the estimated total cost of the house, some claiming the costs would be between five and six million Euro (Birkenstock, 2013). After five years, in June 2013, the diocese published the final 'all-in' cost of the residence, putting it at €9.85 million (Smale, 2013). In October 2013, it was revealed that the cost for construction on the house went over budget and was subsequently even more expensive than that - €31 million (Pullella, 2014). Both the German media and the wider community showed their discontent and called for the Bishop to step down. The news became international as more details arose about the luxuriousness of the house in question including a €15,000 bathtub, a €25,000 conference table, landscaping worth €800,000, and a €2.9 million private chapel (Johnston, 2013; Smale, 2013).

Tebartz-van Elst remained adamant in dismissing claims that he had done anything wrong. In an interview, he claimed that those who knew him, knew that he was not pompous, and that he regretted the media escalation regarding such a trivial matter (BBC News, 2013). He claimed that the expenses

billed accounted for ten different building projects for use by the community as a whole and that much of the cost was due to taxes and fines paid for renovating historical buildings (Smale, 2013). He also claimed that he felt obliged to invest in high-quality construction projects as many previous projects had been shoddy and riddled with logistical problems (ORF, 2014). Some came to his defence, claiming that the amounts were indeed exaggerated (Deutsche Welle, 2013) and attested to the Bishop's integrity. At the same time, however, the Bishop was accused of perjury for lying about an upgrade to First Class when flying to India in 2012 (Müller and Wensierski, 2013). The case ended with a settlement of €20,000 paid to the court (Spiegel, 2013).

Finally, due to international pressure, on the 21st of October 2013 Bishop Tebartz-van Elst decided to fly to Rome to meet with Pope Francis to discuss the entire matter. After a behind closed doors meeting with the Pope, Tebartz-van Elst was suspended as Bishop of Limburg and replaced temporarily with Limburg's vicar-general, Wolfgang Roesch (Pullella, 2014). Six months later on 26 March 2014 Bishop Tebartz-van Elst ultimately resigned. Whilst this was for many the end of the matter, the case did still rumble on in to 2015. A number of officials in the Limburg diocese attempted to illustrate that Tebartz-van Elst was personally liable for the construction costs (Deckers, 2015). The Vatican investigated this and, following discussions with officials in Limburg, decided that it would not instigate legal proceedings against Tebartz-van Elst (Radio Vatikan, 2015). With that, the case was formally closed.

Nothing to see here? German law and the case of Tebartz-van Elst

This case immediately throws up an array of definitional challenges. Legally, it is not at all clear that this is a case of corruption at all. Certainly, Tebartz van Elst has never been charged with any offence related to the building of the new residence, let alone convicted of anything. However, it is worth considering precisely which legal jurisdiction the Bishop is bound to. Limburg is in Germany and is subsequently under German legal jurisdiction, but it didn't take long (23rd October 2013) for a spokesperson for Angela Merkel to affirm that the situation was "an internal Church matter" and that the German state would not be intervening (The Associated Press, 2013). This statement is more

relevant in Germany than it might be in many other places as the German state does allot monies to the Catholic Church through the so-called Church Tax (*Kirchensteuer*), but once the money has been transferred, it is up to the Church how it spends it (Hoffer, 2010).

Given that there appeared to be a consensus that this was an ‘internal matter of the Church’, the next step is to assess the legal pretences of the Bishop’s lavish expenses under Catholic law. The Catholic Church is headed by the Holy See, based in Vatican City, which represents the government of the Catholic Church, acting as the executive, legislative and judicial branch all of which report directly to the Pope. The Pope presides as an absolute monarch and acts as the guide for all ecumenical, theological, and civil matters of the Church. Despite the Pope’s supreme power, the Holy See utilises the Code of Canon Law which “provides the magisterial and theological ‘compass’ and is the ‘essential and fundamental Magna Carta’ of the Church today” (Leahy 2011). The Code of Canon Law, established in 1917 and revised in 1983 and 1990, is based on 2,414 canons (Nichols, 1968; Ombres, 2012). Beyond delineating the basic power structure and nodes between the Pope and the Bishops, it also sets out guidelines on how diocesan Bishops should behave. According to Canon Law, Bishops are the legislative, executive, and judicial power of the diocese (CIC, c.391) and are responsible for temporal goods that the diocese owns and the administration of these (CIC, cc.634-640). A Bishop is exalted to understand and acknowledge the needs of the Church and “to contribute according to their ability something from their own goods to provide for the needs of the Church and the support of the poor” (CIC, c.640), and must follow certain guidelines in regards to the use of resources. These guidelines include receiving general approval for the use of funds, writing reports to the congregation - in this sense the Catholic community of the diocese, as well as administrators in Limburg – and keeping accurate records of expenditures (CIC, c.1284, §2). They are the only legal constraints on Bishops being accountable to their dioceses. While the Code recommends the use of consultative bodies within the congregation, it is not compulsory in the diocese and gives these bodies no powers. The congregation of the diocese is entrusted the task of being vigilant regarding the use of the Church’s resources (CIC, c.392, §2; CIC, c.1276).

The Bishop of Limburg subsequently did not break any Canon Laws related to the process and

execution of funds. He wrote reports and released information, although lacking in detail, to the congregation just as Canon Law states (Millegan, 2013). After the scandal, segments of the congregation confessed that they had kept quiet about the situation until it was too late (Birkenstock, 2013) so Canon Law might plausibly see fit to punish the congregation (as opposed to the Bishop) for not maintaining vigilance over expenditures during the five years of construction.

Yet Pope Francis still decided to remove Tebartz-van Elst from his position. According to Canon 1442 he had every legal right to do so as the Pontiff is “the supreme judge for the Catholic world” and, as per Canon 331, “has supreme, full, immediate and universal ordinary power in the Church, and he can always freely exercise this power” (Ombres, 2012). As the leader of the Church, the Pope may decide if an act committed by a Bishop is or is not a reflection of Catholic doctrine, and decide to remove him from the diocese under that pretence based on Canons 192 to 195 (Reese, 1996). Therefore, Francis had the authority to dismiss Tebartz-van Elst if he considered his act to go against doctrine. Most experts in Canon Law that commented on the case concurred with Francis’s judgement, agreeing that the general tone of austerity and modesty of the Church was incompatible with spending on a luxurious residence that would only be used by the Bishop (Lawton, 2013; Millegan, 2013).

So, to summarise, if one takes laws as a starting point, Bishop Tebartz-van Elst may and may not have acted in a corrupt fashion. He did not break German law by using church money for personal gain and representatives of the German state made it clear that they saw no reason to involve themselves any further in this case. Bishop Tebartz-van Elst did, however, break the spirit of the law as defined by the Catholic Church. He did this because Pope Francis believed he did. Given that the Canon Laws gave Pope Francis the legal right to pass judgement on this and given that Bishop Tebartz-van Elst was suspended from office, this is much stronger evidence – even if no Vatican official said so in as many words – that corruption may indeed have taken place.

Corruption and the politics of power

Analysing the legal situation offers some insight in to what is and what is not a corrupt act, but there are still outstanding issues that need addressing. As Mark Philp (1997) noted, and as was mentioned

above, judgements about what is and what isn't corrupt will be affected by the values, norms and ideas that shape individuals' understanding of what politics actually is. This was most starkly evident in the 2008 UK Parliamentarians' expenses episode, where accusations of systemic corruption were freely made but closer analysis revealed that in the vast majority of cases few House of Commons rules and regulations (let alone laws of the land) had been broken (see van Heerde-Hudson, 2016). Expectations of 'what was appropriate' dominated much of the popular analysis.

Political scientists may argue the use (and abuse) of power between different actors is key to understanding more about this case. Indeed, Tebartz-van Elst's willingness not only to allegedly feather his own nest but also to expand and deepen his own power and influence led, most pressingly for the discussion here, to accusations of corruption arising. For many political scientists, actors are believed to want to gain or maintain power. This then enables them to defend their own pre-defined interests (Stoker, 1992). By analysing the interests of actors in a specific case, one can try to understand why and how decisions are carried out. One aspect of the Tebartz-van Elst case is that the Bishop might well simply be defending his own interests, and the question then arises as to whether this has been done in alignment with the norms and practices of his role.

Tebartz-van Elst's interests were relatively straightforward: to improve his living standards by rebuilding, refurbishing and expanding the residence that he lived in. In the first instance, he achieved this through a series of quite simple manoeuvres within the diocese. The Bishop is the executive, legislative and judicial power in a diocese according to Canon Law. Therefore, there is no legal requirement to get approval from the congregation, and yet in the diocese, a Financial Commission exists to approve large expenditures by the Bishop (Millegan, 2013). The Bishop received approval for the use of diocese funds from this commission – a commission he controlled and thus had a free hand to steer.

Once his allegedly inappropriate spending came to light, his interests changed. He wanted to simply remain in position. The Bishop clearly did not wish to involve the Pope in these debates, largely, it can be assumed, as the Pope is the only person who can remove a Bishop and Tebartz-van Elst would then

be losing control of his own future. The Bishop subsequently tried to overtly defend his actions, claiming, for example, that the expenditures he'd made involved multiple projects and, as told by a pastoral letter to the congregation, and that he was a victim of an alleged media frenzy. This, so he claimed, was attacking not just him but the Church hierarchy more generally (Pentin, 2013). His approach culminated in a strategic trip (on a low-cost airline) to the Vatican in an attempt to neutralise the situation by speaking to the Pope. By the time he reached Rome, the Vatican had been fully aware of the details of the situation because of its coverage by international media.

Others, of course, had interests too. And the way that they proceeded to defend these may well have had a significant effect on whether others viewed the Bishop's behaviour as corrupt. The Board of Priests, a ruling body of 200 priests from the Diocese, had for example played a significant decision-making role under the previous Bishop, Franz Kamphaus, but under Tebartz-van Elst the group had been relegated in importance (Wensierksi, 2013a). The main interest of this group was to regain more decision making power in the diocese. Before 2013, the priests of the parish complained about the Bishop to the local media and they attempted to levy for more decision making power. So as to not clash directly with Tebartz-van Elst and his sympathisers, a group broke away from the Board. This group, the Hofleim Circle, articulated open opposition to the Bishop. Led by Hubertus Janssen, the Hofleim Circle subsequently began a campaign to oppose the rule of the Bishop (Wensierksi, 2013a; Birkenstock, 2013). By 2011, the Hofleim Circle had encouraged 4,000 people in the diocese to sign a petition opposing the Bishop's administration (Allen, 2013). Noteworthy though they were, these attempts were unsuccessful as Tebartz-van Elst further tightened control on the Financial Commission and also increased dues owed to the Bishop by each parish (Birkenstock, 2013).

However, when the scandal broke in August 2013, the Board of Priests sided behind the Hofleim Circle and became the most vocal voice of protest within the diocese. Janssen himself became a spokesperson for the congregation, frequently appearing in the media speaking of the authoritarian style of the Bishop (Birkenstock, 2013). After the removal of Tebartz-van Elst, the German Church sent a team to intervene in the diocese and audit it (Smale, 2013). This led to the vicar-general being instated as temporary Bishop, an opening up of finances to the Board, and new rules that further

involved the Board. In short, the Board of Priests fanned the flames of the episode, gained more decision-making power and contributed to the public becoming more aware of the behaviour of Tebartz-van Elst.

The removal of Tebartz-van Elst from Limburg by the Pope was a simple and yet powerful action. The Pope's decision was nonetheless a fairly uncommon one in politics involving bishops. This was because, during the 20th Century at least, the extent and scope of Papal involvement in a Bishop's diocesan affairs remained one of the most controversial issues within the Church (Hanson, 1987). Popes had been reluctant to intervene too much for fear of being labelled authoritarian and losing support from congregations worldwide. The removal of bishops had been seen as the last possible solution a Pope could employ to influence the dealings of a diocese (Reese, 1996). Benedict XVI had nonetheless cleared the way to more papal intervention by removing some high profile Bishops during his Papacy (Smale 2013). Francis took precautions by sending Cardinal Giovanni Lajolo to investigate the case in August (Smale, 2013) and German Archbishop Robert Zollitsch to personally investigate thereafter (Lindsey, 2013). Francis also met Tebartz-van Elst before removing him.

Francis's most important interest in removing the Bishop was to reassert the supreme power of the Pope in the Church and also to limit any further damage to the Church's reputation. The Pope's message of austerity and humility was directly challenged by Tebartz-van Elst's luxurious spending. His removal asserted papal power. If he had not acted as he did, Francis could have been labelled a hypocrite for preaching a message that he did not mean. A second interest served by the Bishop's removal was that Francis sent a message of reassurance to the rank and file. The Church had been rocked by scandal in the 2000s following several allegations about child abuse by priests. The inaction of Benedict XVI in punishing the priests involved led to general disappointment amongst Catholics, many of whom left the Church. A similar situation, if on a much lesser scale, was occurring in the diocese of Limburg after the news broke. In Limburg alone it was reported that in the first ten days of October 2013 twenty people left the Catholic Church and it was calculated that in the diocese one person left the Church every second day (Dege, 2013). The Church receives much of its funds and its political power from its followers, so any situation that leads to a decrease of this power base directly

affects the Vatican. By taking a firm stance to punish Tebartz-van Elst, Francis improved the image of the Church and thus avoided a potential exodus.

By taking the power and interests of the various actors in to account, one can understand why and how narratives of the case developed. The methods that different actors use to defend themselves and/or their institutions and, at times, to expand their respective power bases, can have a profound effect on perceptions and understandings of the case to hand. The inability of Tebartz-van Elst to effectively defend his behaviour, the efforts of the Hofleim Circle to win back their own influence and status and of course the willingness of the Pope to defend the Catholic Church more generally all helped define and re-define the very act itself.

Incentives and Rent-Seeking

If the role of power and interests reveal something about how an alleged corrupt act might be perceived and understood, then economists might well argue that understanding incentives could reveal even more about the nature and type of process that we're analysing. As Della Porta and Vannucci (2012) argue, an economist's approach to analysing corruption sees it as "the outcome of individual choices, and its spread is determined by the structure of expected costs and rewards". Following this logic, the economist starts from the position individuals take the decision to engage in a corrupt exchange based "the expected risk of being denounced and punished" and "the severity of potential penal and administrative penalties, and the expected rewards" (Della Porta & Vannucci, 2012).

Through the 1980s and 1990s economists came to dominate the world of corruption analysis, developing a powerful critique of officials in executive roles as potential rent-seekers (Rose-Ackerman, 1999; Tanzi, 2000; Rose-Ackerman and Palifka, 2016). With this in mind, the case of Bishop Tebartz-van Elst can certainly be seen as the rational behaviour of a rent-seeker. There was a lot to be gained from spending lavishly on his residence. The Bishop was 53 years old, and if deemed fit to remain in his post, he could have done so until the age of 75, which means that Tebartz-van Elst could have lived 22 years in his luxurious home, receiving what we can only assume will be a significant wage from the Church to pay his expenses. It is worth noting that it is not clear how much a Bishop in Germany

actually earns. It *is* clear, however, that the Bishop's pension and his living expenses are paid by the Church, but as diocese finances are secret, outsiders do not have access to precise income details (Obermueller & Bhatti, 2013).

Yet, it should be noted, Tebartz-van Elst had much more to gain than just his luxurious house. The German Church's finances are independent of the Holy See, and to form part of the congregation members must pay a "Church Tax". This amounts to roughly 8 or 9 percent of the Church member's annual federal income tax liability, which results in an effective rate of roughly 3 to 4 percent of the member's income yearly (Hoffer, 2010). From this tax, the German Catholic Church collects roughly €5.2 billion in tax revenue from 23 million members (Obermueller & Bhatti, 2013). While money flows within the Church are kept secret, it is known that from that revenue only a small percentage goes to the Pope (Lewin, 1983) and another small percentage to the Archdiocese (Hoffer, 2010). The rest is spread among the dioceses proportional to the amount of members that they have. There is no reliable way to estimate the finances available to the Bishop of Limburg, as income from Church tax, donations, property rents, and sale of property are kept secret. Some dioceses in Germany have revealed their reserves, and show large amounts, such as €166.2 million (Cologne) and €46.5 million (Speyer) (Heneghan, 2013). Therefore, it *is* verifiable that the diocese of Limburg had at least €31 million available to spend on the residence and, based on the reserves of other dioceses, probable that the diocese had more funds in its coffers. The incentive for the Bishop to extract rent was therefore considerable.

The penalties and chances of the Bishop getting caught have been outlined above. The greatest potential penalty was dismissal but the chances of that happening were, at the start of the process at least, minimal. As stated, Popes had been reluctant in the past to remove Bishops and court controversy. Moreover, luxurious spending scandals had rocked the church before; in 2002 Bishop William Murphy became well known for spending \$5 million on renovations for his residence at his Rockville Centre diocese in Long Island. This included importing oriental rugs and buying tailor-made furniture. Despite the controversy that ensued, Pope John Paul II did not punish the Bishop and at the time of writing (mid-2016) he still remained in post (Ryan, 2002). Scandals have happened closer to

Tebartz-van Elst's home; during Benedict XVI's papacy, Cardinal Reinhard Marx of Munich's archdiocese spent around \$11 million renovating the archbishop's residence and another \$13 million for a guesthouse in Rome (Obermueller & Bhatti, 2013). He was not handed any punishment and, again at the time of writing, still continues in his post.

One further incentive for Tebartz-van Elst to behave as he did was that according to Vatican rules on spending any diocesan expenditure over €5 million had to be approved by the Vatican (Wensierski, 2013a). Any overspending scandal of this scale would imply that the Vatican would, or at least should, have been aware of it. Furthermore, if the project expenditure had been approved by both the financial commission and, in theory, the Vatican, the risk of being reprimanded would decrease significantly, as two bodies that could denounce the spending had approved the funds and were accountable for their decision (Wensierski, 2013a).

This understanding of the incentives that lead to corrupt behaviour can help analysts develop policies and institutional frameworks that might conceivably prevent corruption from occurring. The most obvious incentives that lead to rent-seeking behaviour can subsequently be removed and replaced with more transparent, efficient and ultimately effective substitutes. Furthermore, the economist's approach can tell the corruption analyst plenty about the conditions through which corruption replicates itself and becomes an attractive option for apparently rational, self-preserving actors.

Norms, Values and Context

Whereas a stress on rent-seeking and assumptions about the rationality of humans are useful for those adopting the approach and the method of the economist, anthropologists would look at this episode through a completely different prism. These scholars examine social practices and norms, and they try to construct meaning out of the patterns of behaviour that they see. This type of approach to understanding corruption can be identified by its completely different methodology, with participant observation, ethnographic approaches and in depth qualitative research being very much to the fore.

The emphasis here would not be on measuring the behaviour of Bishop Tebartz-van Elst against

objective criteria, but in placing it in the context of the culture within which it has taken place. The key would be to understand what the actors involved think is important and how they shape, or are shaped by, the written and unwritten rules around them. Only then can calls be made on whether this, or any, act can or should be seen as corrupt.

One way of doing this is by placing the behaviour of Tebartz-van Elst in the different cultural settings of on the one hand the German Catholic Church and on the other hand that of the broader Catholic Church since the Second Vatican Council (referred to as Vatican II). To understand both would be to understand why the Bishop of Limburg's behaviour was a testing moment for various constituent parts of the Catholic Church.

To put that in perspective, ever since the 1500s the German Catholic Church has been through regular periods of controversy. In recent times one aspect of this controversy has been that German Catholic leaders have regularly been accused of being “princes of the Church,” driving, for example, luxury cars and spending millions on their respective residences (Wensierksi, 2013b). Bishop Tebartz-van Elst was, in other words, by no means the first to have become embroiled in controversy surrounding lifestyle choices. Tebartz-van Elst grew up in this environment and thus lived largely as his peers did. His at times luxurious lifestyle was influenced by a German Church that “has no transparency and Cathedral chapters [that] defend old privileges like their enormously generous salaries with much more vigor than unborn life, the right to fair wages or the poor” (Millegan, 2013).

The counterpoint to this began developing in the 1960s with Vatican II, and culminated with Pope Francis. The 1960s saw a time of deep changes within the broader Catholic Church. Priests from the developing world began to interpret Christian teaching with increased emphasis on the improvement of temporal life, especially of those that suffered economic hardships (Nichols, 1968). Liberation theology, as this movement began to be known, placed heavy emphasis on helping the poor and espousing a humble lifestyle of servitude to the needy. Vatican II was a three year conference of Bishops meant to develop a strategy for the future of the Church in the modern world. Vatican II established among other things the secular role of the Church, and declared that the mission of the Church was to

promote social justice (Hanson, 1987). The changes brought about by Vatican II were none the less implemented and acted upon slowly, as the old hierarchy of the Church took time to respond and embrace them.

Francis I is the culmination of the changes of Vatican II. His emphasis on humility and the need for the Church to reach out to the poor is drawn along the same lines as Vatican II (Lida & Fabris, 2013). Pope Francis has professed on several occasions that he longs, “for a poor Church that look[s] after others, accept[s] monetary help and use[s] it to help other with no thought of itself” (BBC News, 2013). The Pope has even made comments about luxury within the hierarchy of the Church, claiming that bishops “must be fathers and brothers who are humble, patient, and capable of pity. They should embrace poverty, living simple and austere lives. They must not behave like princes [...]” (Flamini, 2013). Many Church experts recognise that the decision to remove Tebartz-van Elst was based on the decision to act on a discourse that had been evolving for the last fifty years. Rome’s understanding of corruption evolved over time, and changed with the norms, values and cultural development within the Vatican’s corridors of power. As the definitions of what was and what was not acceptable changed, so did attitudes to the behaviour of some of the more financially extravagant bishops. With that in mind, a case like that of Tebartz-van Elst was much more likely than many people living and working in the altogether different social setting of the German Catholic church apparently realised (Smale, 2013; Millegan, 2013; Wensierksi, 2013b).

Conclusion

This article has illustrated that the events surrounding Bishop Franz-Peter Tebartz-van Elst can be seen in strikingly different ways. The stresses that different disciplinary approaches place on particular parts of the definitional mosaic can subsequently help the observer get a much more rounded picture of what has gone on, why it has gone on and how it should be understood. A comparative analysis of these interpretations illustrates that some approaches to a given case may well offer compelling evidence of what could be understood as corrupt behaviour. Other analytical starting points, however, may lead to either more ambiguous positions or simply to the conclusion that the particular sets of behaviour were

not corruption at all.

From a legal perspective, Bishop Tebartz-van Elst may and may not have acted in a corrupt fashion. He certainly did not break German law and representatives of the German state made it clear that they saw no reason to involve themselves in the case. Bishop Tebartz-van Elst did, however, break the spirit of the law as defined by the Catholic Church. He did this because Pope Francis believed that he did. Given that the Canon Laws gave Pope Francis the legal right to pass judgement on this, and given that Bishop Tebartz-van Elst was suspended from office, this is much stronger evidence – even if no Vatican official said so in as many words – that corruption may indeed have taken place.

If issues of power and interests are placed at the centre of the analysis, one can understand more about why and how narratives of the case may have developed. These narratives themselves may well have influenced perceptions of whether Tebartz-van Elst's behaviour was believed to be corrupt. The methods that different actors use to defend themselves and/or their institutions and, at times, to expand their respective power bases, can have a profound effect on perceptions and understandings of the case to hand. The inability of Tebartz-van Elst to effectively defend his behaviour, the efforts of the Hofleim Circle to win back their own influence and status and of course the willingness of the Pope to defend the Catholic Church more generally all helped define and re-define the very act itself.

An understanding of the incentives that lead to corrupt behaviour, meanwhile, is strong on what could theoretically be causing corruption but much weaker on what corruption actually is. Economists have traditionally relied on public office conceptions of corruption, and analysis of this case is likely to be no different. Paradoxically, this helps develop policies and institutional frameworks that might conceivably prevent corruption from occurring, but it tells us little about what corruption is. Economists, and the principal-agent models that they tend to invoke, can tell the corruption analyst plenty about the conditions through which corruption replicates itself and becomes an attractive option for apparently rational, self-preserving actors. But the assumptions that underpin understandings of what corruption is remain decidedly static.

Anthropologists, meanwhile, face the very opposite problem. Their definitions are heavily context-

specific and can and do change over time and place. In this case it could plausibly be argued that the decision to remove Tebartz-van Elst was based on an understanding of corruption that had been evolving for at least the last 50 years. The definition of corruption changed with the norms, values and cultural development within the Vatican itself. As the definitions of what was and what was not acceptable changed, so did attitudes to the behaviour of some of the more financially extravagant bishops. With that in mind, a case like that of Tebartz-van Elst became more likely, even if many within the German Catholic church apparently remained unaware of that.

The classic definition of the abuse of entrusted power for private gain therefore only ever acts as a rudimentary starting point. Lawyers, political scientists, economists and anthropologists are nonetheless always likely to disagree on how to improve on it. However, a genuine attempt to integrate the ideas of scholars from these four broad disciplines can help unpack the type of corruption with which one is dealing, how best to understand its genesis and what can be done to prevent it happening again.

This article also illustrates that there is plenty of scope to analyse corruption within the church more broadly. This is particularly so in places like Germany where the Church receives substantial funding from the state, but also as the Church remains an international actor of significance. Historians and international relations scholars in particular have much to contribute here. It is also likely that more cases like these will arise as Francis I squares off against luxury within the Church. You cannot, after all, “serve God and Money” (*Luke*, 16:13). The challenge for corruption scholars is to use all (and not just some) of the tools at their disposal to make sense of alleged corruption episodes as and when they arise.

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